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AN ACT
RELATING TO PUBLIC FINANCE; PROVIDING FOR THE ISSUANCE AND
USE OF STATE TRANSPORTATION PROJECT BONDS FOR CERTAIN
TRANSPORTATION PROJECTS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. AUTHORIZED TRANSPORTATION PROJECTS.--The
department of transportation may use the net proceeds of
state transportation project bonds issued by the New Mexico
finance authority pursuant to Section 67-3-59.2 NMSA 1978 and
Section 5 of this 2021 act for the following transportation
projects:

A. for state highway construction, reconstruction
and improvement projects specifically authorized by the
legislature during the first session of the fifty-fifth
legislature;

B. for keeping projects in the state
transportation improvement program on schedule due to reduced
revenues from the coronavirus disease 2019 pandemic; and

C. other state highway projects identified in the
state transportation improvement program.

SECTION 2. Section 67-3-59.2 NMSA 1978 (being Laws 1999
(1st S.S.), Chapter 9, Section 3, as amended) is amended to
read:

"67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--

1 PURPOSE.--

2 A. The "highway infrastructure fund" is created in
3 the state treasury and shall be administered by the
4 department. The fund shall consist of money from various
5 fees and taxes distributed to the fund. Earnings on
6 investment of the fund shall be credited to the fund.
7 Balances in the fund at the end of any fiscal year shall not
8 revert and shall remain in the fund for the purposes
9 authorized in this section.

10 B. Money in the fund shall be used solely for
11 acquisition of rights of way or planning, design,
12 engineering, construction or improvement of state highway
13 projects authorized pursuant to the provisions of Laws 1998,
14 Chapter 84, Subsections C through H of Section 1 of
15 Chapter 85 of Laws 1998, Laws 2003 (1st S.S.), Chapter 3,
16 Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3,
17 Section 8 and Section 1 of this 2021 act and is appropriated
18 to the department for expenditure for those purposes.

19 C. The taxes and fees required by law to be
20 distributed to the highway infrastructure fund may be pledged
21 for the payment of bonds issued pursuant to
22 Sections 67-3-59.1, 67-3-59.3 and 67-3-59.4 NMSA 1978,
23 Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of
24 this 2021 act for the highway projects authorized in the laws
25 specified in Subsection B of this section."

1 SECTION 3. Section 67-3-59.3 NMSA 1978 (being Laws 2003
2 (1st S.S.), Chapter 3, Section 24, as amended) is amended to
3 read:

4 "67-3-59.3. STATE TRANSPORTATION PROJECT BONDS--
5 ISSUANCE--PROCEDURES--APPROVAL.--

6 A. In order to provide funds to finance state
7 transportation projects, the New Mexico finance authority,
8 when directed by the state transportation commission, is
9 authorized, subject to the limitations of this section,
10 Section 67-3-59.4 NMSA 1978, Laws 2020 (1st S.S.), Chapter 3,
11 Section 8 and Section 5 of this 2021 act, to issue state
12 transportation project bonds from time to time, payable from:

13 (1) federal funds not otherwise obligated
14 that are paid into the state road fund;

15 (2) proceeds of the collection of taxes and
16 fees that are required to be paid into the state road fund
17 and not otherwise pledged exclusively to the payment of
18 outstanding bonds and debentures; and

19 (3) taxes and fees required by law to be
20 paid into the highway infrastructure fund.

21 B. The New Mexico finance authority, when directed
22 by the state transportation commission, may issue bonds to
23 refund other bonds issued by or at the direction of the state
24 transportation commission pursuant to this section or
25 Section 67-3-59.1 NMSA 1978 by exchange or current or advance

1 refunding.

2 C. In consultation with the state transportation
3 commission, the New Mexico finance authority shall determine
4 all terms, covenants and conditions of the bonds; provided
5 that the project design life of a project meets or exceeds
6 the life of the bond issued for that project, and each series
7 of bonds shall be sold, executed and delivered in accordance
8 with the provisions of the New Mexico Finance Authority Act.
9 The New Mexico finance authority may enter into interest rate
10 exchange agreements, interest rate swap contracts, insurance
11 agreements, remarketing agreements and any other agreements
12 deemed necessary in connection with the issuance of the
13 bonds.

14 D. Proceeds of the bonds and amounts on deposit in
15 the state road fund and the highway infrastructure fund may
16 be used to pay expenses incurred in the preparation,
17 administration, issuance and sale of the bonds and, together
18 with the earnings on the proceeds of the bonds, may be used
19 to pay rebate, penalty, interest and other obligations
20 relating to the bonds and the proceeds of the bonds under the
21 Internal Revenue Code of 1986, as amended.

22 E. This section is full authority for the issuance
23 and sale of the bonds, and the bonds shall not be invalid for
24 any irregularity or defect in the proceedings for their
25 issuance and sale and shall be incontestable in the hands of

1 bona fide purchasers or holders of the bond for value.

2 F. The bonds shall be legal investments for a
3 person or board charged with the investment of public funds
4 and may be accepted as security for a deposit of public money
5 and, with the interest thereon, are exempt from taxation by
6 the state and a political subdivision or agency of the state.

7 G. Any law authorizing the imposition or
8 distribution of taxes or fees paid into the state road fund
9 or the highway infrastructure fund or that affects those
10 taxes and fees shall not be amended or repealed or otherwise
11 directly or indirectly modified so as to impair outstanding
12 bonds secured by a pledge of revenues from those taxes and
13 fees paid into the state road fund or the highway
14 infrastructure fund, unless the bonds have been discharged in
15 full or provisions have been made for a full discharge. In
16 addition, while any bonds issued by the New Mexico finance
17 authority pursuant to the provisions of this section remain
18 outstanding, the powers or duties of the state transportation
19 commission or the authority shall not be diminished or
20 impaired in any manner that will affect adversely the
21 interests and rights of the holder of such bonds.

22 H. In contracting for state transportation
23 projects to be paid in whole or in part with proceeds of
24 bonds authorized by this section, the department shall
25 require that any sand, gravel, caliche or similar material

1 needed for the project shall, if practicable, be mined from
2 state lands. Each contract shall provide that the contractor
3 notify the commissioner of public lands of the need for the
4 material and that, through lease or purchase, the material
5 shall be mined from state lands if:

6 (1) the material needed is available from
7 state lands in the vicinity of the project;

8 (2) the commissioner determines that the
9 lease or purchase is in the best interest of the state land
10 trust beneficiaries; and

11 (3) the cost to the contractor for the
12 material, including the costs of transportation, is
13 competitive with other available material from nonstate
14 lands.

15 I. Bonds issued pursuant to this section shall be
16 paid solely from federal funds not otherwise obligated and
17 taxes and fees deposited into the state road fund and the
18 highway infrastructure fund and shall not constitute a
19 general obligation of the state.

20 J. For purposes of this section, "state
21 transportation project bonds" includes only those bonds
22 issued pursuant to this section and excludes transportation
23 bonds as defined in Section 67-3-72 NMSA 1978."

24 SECTION 4. Section 67-3-59.4 NMSA 1978 (being Laws 2003
25 (1st S.S.), Chapter 3, Section 26, as amended) is amended to

1 read:

2 "67-3-59.4. STATE TRANSPORTATION PROJECT BONDS--
3 AUTHORIZATION AND APPROPRIATION--PRIORITIES--CRITERIA--
4 REPORTS.--

5 A. It is the intent of the legislature to
6 authorize the New Mexico finance authority to issue state
7 transportation project bonds pursuant to Section 67-3-59.3
8 NMSA 1978 for projects specified in Laws 2003 (1st S.S.),
9 Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.),
10 Chapter 3, Section 8 and Section 1 of this 2021 act in the
11 total aggregate principal amount of one billion five hundred
12 eighty-five million dollars (\$1,585,000,000).

13 B. The state transportation commission may
14 authorize the New Mexico finance authority to issue and sell
15 state transportation project bonds. The proceeds of the
16 bonds are appropriated to the department of transportation
17 for projects listed in Laws 2003 (1st S.S.), Chapter 3,
18 Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3,
19 Section 8 and Section 1 of this 2021 act.

20 C. The department of transportation shall provide
21 to the legislature and the governor a report on
22 transportation priorities and progress. The report shall
23 include:

24 (1) justification of priority ranking of
25 projects, including the following for each highway project

1 enumerated in Laws 2003 (1st S.S.), Chapter 3, Sections 27
2 and 28:

3 (a) traffic counts and accident rates
4 and the expected improvements to traffic flow, health and
5 safety;

6 (b) the ranking of the pavement and
7 substructure conditions;

8 (c) an assessment of economic
9 development impacts; and

10 (d) other information deemed
11 significant by the department;

12 (2) the expected life of the proposed
13 improvement;

14 (3) sufficiency of revenue to pay the
15 principal and interest of all outstanding and proposed bonds
16 based on a five- and twenty-year financial forecast for the
17 state road fund and the effect of the bond program on the
18 department's construction and maintenance program;

19 (4) status report of ongoing major
20 construction;

21 (5) the relationship between the requested
22 projects and the statewide transportation improvement
23 program; and

24 (6) any other information requested by the
25 legislature or the executive.

1 D. The department of transportation shall provide
2 quarterly progress reports to the department of finance and
3 administration and the legislative finance committee.

4 E. The department of transportation shall adopt
5 and enforce rules with the goal that no less than seventy
6 percent of the work force of an exclusively state-funded
7 project authorized in Laws 2003 (1st S.S.), Chapter 3,
8 Sections 27 and 28 shall be residents of New Mexico."

9 SECTION 5. Laws 2020 (1st S.S.), Chapter 3, Section 8
10 is amended to read:

11 "SECTION 8. DEPARTMENT OF TRANSPORTATION PROJECTS--
12 AUTHORIZATION TO ISSUE STATE TRANSPORTATION PROJECT BONDS.--

13 A. Of the aggregate principal amount of one
14 billion five hundred eighty-five million dollars
15 (\$1,585,000,000) for state transportation project bonds that
16 the New Mexico finance authority is authorized to issue
17 pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978, the
18 New Mexico finance authority may, on or after July 1, 2021,
19 issue and sell state transportation project bonds in a
20 principal amount not to exceed two hundred thirty-four
21 million six hundred thousand dollars (\$234,600,000) for
22 acquisition of rights of way, planning, design and
23 construction and to match federal and other state funds for
24 projects for which general fund appropriations were made
25 pursuant to Laws 2019, Chapter 271, Section 9 and projects in

1 Section 1 of this 2021 act.

2 B. The department of transportation may use the
3 net proceeds of state transportation project bonds issued by
4 the New Mexico finance authority pursuant to Subsection A of
5 this section for the projects for which general fund
6 appropriations were made pursuant to Laws 2019, Chapter 271,
7 Section 9 and projects in Section 1 of this 2021 act.

8 C. Any unexpended or unencumbered balance after
9 the completion of the projects authorized in this section and
10 in Section 1 of this 2021 act shall revert to the state road
11 fund."

12 SECTION 6. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect
14 immediately. _____

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